

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*  
February 11, 2011

LaDonna Castañuela  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Rate/Tariff Change Application of HHJ, Inc. dba Decker Utilities; SOAH Docket No. 582-08-1719; TCEQ Docket No. 2008-0164-UCR.

Dear Ms. Castañuela:

Enclosed please find the original and seven copies of the ED's Proposed Revisions to the Administrative Law Judge's Amended Proposal for Decision for the above-referenced matter.

If you have any questions, please call me at (512) 239- 6033.

Sincerely,

A handwritten signature in cursive script that reads "Erin Selvera".

Erin Selvera  
Staff Attorney  
Environmental Law Division

Enclosure

cc: HHJ, Mark H. Zeppa, Attorney, Law Offices of Mark H. Zeppa, P.C., 4833 Spicewood Springs Road, Ste 202, Austin, Texas 78759-8346 via facsimile at (512) 346-6847  
Sheresia Perryman, TCEQ, Water Supply Division, via email at [Sheresia.Perryman@tceq.texas.gov](mailto:Sheresia.Perryman@tceq.texas.gov)  
Heidi Graham, TCEQ, Water Supply Division, via email at [Heidi.Graham@tceq.texas.gov](mailto:Heidi.Graham@tceq.texas.gov)  
Blas Coy, TCEQ, Office of Public Interest Counsel, MC-103 via email at [Blas.Coy@tceq.texas.gov](mailto:Blas.Coy@tceq.texas.gov)

Larry Osborne, 32126 Anne Lane, Pinehurst, Texas 77362 via email at [larryandrew41@hotmail.com](mailto:larryandrew41@hotmail.com)

Stacy McCoy-Moquin, 12011 Rhonda Lane, Pinehurst, Texas 77362, via email at [stacy\\_moquin@yahoo.com](mailto:stacy_moquin@yahoo.com)

Peter Gregg, Fritz, Byrne, Head and Harrison, PLLC, 98 San Jacinto Blvd. Ste 2000, Austin, Texas 78701, via email at [PGregg@fbhh.com](mailto:PGregg@fbhh.com)

**SOAH DOCKET NO. 582-08-1719  
TCEQ DOCKET NO. 2008-0164-UCR**

<b>APPLICATION OF HHJ, INC.</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>DBA DECKER UTILITIES,</b>	<b>§</b>	
<b>TO CHANGE ITS WATER</b>	<b>§</b>	<b>OF</b>
<b>AND SEWER RATES</b>	<b>§</b>	
	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**THE EXECUTIVE DIRECTOR'S PROPOSED REVISIONS TO THE ALJ'S  
AMENDED PROPOSAL FOR DECISION AND PROPOSED ORDER**

TO THE HONORABLE COMMISSIONERS OF THE TCEQ:

COMES NOW the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) and files the following Proposed Revisions to the Administrative Law Judge's (ALJ's) Amended Proposal for Decision (PFD) in the above captioned matter.

**I. INTRODUCTION**

On February 1, 2011, the ED filed a letter regarding the Supplement to Amended Proposal for Decision which included the ALJ's Proposed Order for this matter. Within the letter, the ED notified the ALJ that there have been some changed circumstances that may affect the issuance of the order as it is written. This filing reflects the ED's proposed revisions in redline/strikeout format to the ALJ's Proposed Order necessary to ensure enforceability of the Order in accordance with the Texas Water Code and TCEQ rules.

**II. RECOMMENDED CHANGES TO CONCLUSIONS OF LAW AND  
ORDERING PROVISIONS**

**Recommended change to Conclusion of Law 8:**

The rates and fees to be charged by Applicant or subsequent CCN holder, as approved by the Commission in this order, are just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and sufficient, equitable, and consistent in application to each class of customer in accordance with TEX. WATER CODE ANN. §§ 13.182, 13.189, and 13.190.

**Recommended changes to Ordering Provision Nos. 3, 4, and 6:**

No. 3: HHJ, Inc. d/b/a Decker Utilities, or subsequent CCN holder shall refund customers, for a period of 24 months, the amount of \$\_\_\_\_\_per water connection per month and \$\_\_\_\_\_per sewer connection per month for the over-recovery of rates that occurred during the pendency of this rate proceeding. This refund shall occur in the form of a credit on customer's bills. Customers who no longer take service from HHJ, Inc. d/b/a Decker Utilities or subsequent CCN holder shall have ~~the total amount~~ of refunds paid directly to them in an amount equal to the amount overpaid by the former customer during the pendency of the rate proceeding.

No. 4: HHJ, Inc. d/b/a Decker Utilities, or subsequent CCN holder shall file a report to the Commission's Utilities and Districts Section, Water Supply Division, including representative samples of customer bills demonstrating compliance with the refund requirements of this Order. This report shall be filed each quarter until such time that all overcharges have been refunded.

No. 6: HHJ, Inc. d/b/a Decker Utilities, or subsequent CCN holder shall notify customers by mail of the final rate structure within 30 days of the date of this Order and shall include the statement required by 30 TEX. ADMIN. CODE §291.28(5) along with the first bill to customers implementing the rates approved by this Order.

**III. CONCLUSION AND PRAYER**

For the foregoing reasons, the ED respectfully requests that the Commission adopt the ALJ's Amended PFD, Supplement there to, and Proposed Order with the ED's proposed revisions as indicated above.

Executive Director's Proposed Revisions to the ALJ's Amended Proposal for Decision  
and Proposed Order  
SOAH Docket No. 528-08-1719, TCEQ Docket No. 2008-0164-UCR  
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Respectfully submitted,  
Texas Commission on Environmental Quality  
Mark R. Vickery, Executive Director

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services

Robert Martinez, Director  
Environmental Law Division



Erin Selvera, Staff Attorney  
Environmental Law Division  
State Bar No. 24043385  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-6033

REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 11<sup>th</sup> day of February 2011, a true and correct copy of the foregoing instrument was sent via the method indicated below to the following:

**FOR SOAH**

VIA: Facsimile  
The Honorable Sharon Cloninger  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West 15th Street  
Austin, TX 78701  
FAX: (512) 322-2061

VIA: Facsimile  
State Office of Administrative Hearings  
Attn: SOAH Docket Clerk  
P.O. Box 13025  
Austin, TX 78711-3025  
PH: (512) 475-4993  
FAX: (512) 322-2061

**CHIEF CLERK**

VIA: E-file and hand delivery  
LaDonna Cantañuela  
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P.O. Box 13087  
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**PROTESTANTS:**

VIA: Email  
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Stacey McCoy-Moquin  
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**Applicant: HHJ, Inc DBA Decker**

**Utilities**

VIA: Facsimile  
Mark H. Zeppa  
Law Offices of Mark H. Zeppa, P.C.  
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EMAIL: [markzeppa@austin.rr.com](mailto:markzeppa@austin.rr.com) or  
[IWSCOT@austin.rr.com](mailto:IWSCOT@austin.rr.com)

**OFFICE OF PUBLIC INTEREST**

**COUNSEL:**

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Erin Selvera